

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

United States of America,

Case No. 11-20407

Plaintiff,

Honorable Sean F. Cox
United States District Judge

v.

D-2 Eric Waldon,

Defendant.

ORDER GRANTING DEFENDANT'S
MOTION FOR A SEPARATE TRIAL

On July 8, 2011, the Government issued a multi-count, multi-defendant indictment, in which it charged Defendant Eric Waldon ("Waldon") with one count of wire fraud in connection with an alleged mortgage fraud. The indictment charges several other defendants with arson, money laundering, and conspiracy to possess with intent to distribute a controlled substance.

On October 12, 2011, Waldon filed a motion for a separate trial, pursuant to FED. R. CRIM. P. 8 and 14(a), asserting that his charges are not of the same or similar character and not part of the same act or transaction as the other alleged offenses.

FED. R. CRIM. P. 8(a) governs whether multiple offenses may be joined in a single indictment, and provides:

The indictment or information may charge a defendant in separate counts with 2 or more offenses if the offenses charged – whether felonies or misdemeanors or both – are of the same or similar character, or are based on the same act or transaction, or are connected with or constitute parts of a common scheme or plan.

Fed.R.Crim.P. 8(a).

Even if joinder of offenses is proper under Rule 8(a), a district court may order severance

pursuant to FED. R. CRIM. P. 14, which states, “If the joinder of offenses or defendants in an indictment, an information, or a consolidation for trial appears to prejudice a defendant or the government, the court may order separate trials of counts, sever the defendants' trials, or provide any other relief that justice requires.” FED. R. CRIM. P. 14. “The resolution of a Rule 14 motion is left to the sound discretion of the trial court and will not be disturbed absent an abuse of that discretion.” *United States v. Tran*, 433 F.3d 472, 478 (6th Cir.2006).

The Government has stated to the Court that it does not object to Waldon’s motion for a separate trial. Moreover, the Court finds that the nature of the charges against Waldon’s co-Defendants warrant a separate trial. Based upon the length of a trial relating to the other Defendants, the type of evidence that will likely be admitted in such a trial, and the nature of the witness testimony that the Court anticipates receiving, the Court agrees that a single a trial would prejudice Waldon.

IT IS HEREBY ORDERED that the Defendant’s motion for a separate trial is GRANTED.

IT IS SO ORDERED.

S/Sean F. Cox

Sean F. Cox

United States District Judge

Dated: October 26, 2011

I hereby certify that a copy of the foregoing document was served upon counsel of record on October 26, 2011, by electronic and/or ordinary mail.

S/Jennifer Hernandez

Case Manager